

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
Atlanta Division**

Hartford Fire Insurance)	
Company,)	
)	
Plaintiff,)	
)	Civil Action
v.)	File No. 1:10-CV-3063-RLV
)	
Merritt & Tenney LLP, Merritt)	
Watson LLP, James F. Tenney,)	
Elaine Pelton and Dean Pelton,)	
)	
Defendants.)	

**DEFENDANT JAMES F. TENNEY'S RESPONSE TO PLAINTIFF'S
RULE 56.1(B) STATEMENT OF ADDITIONAL MATERIAL FACTS AS
TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED**

COMES NOW Defendant James F. Tenney ("Tenney"), pursuant to Local Rule 56.1(B)(3), and files his Response to Hartford's Statement of Additional Material Facts as to Which There is No Genuine Issue to be Tried, showing the Court as follows:

1.

Tenney objects to Hartford's Statement of Additional Fact No. 1 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence (material or otherwise), does not provide a citation to evidence, and purports to state a legal conclusion. By way of

further response, the Pelton complaint does not contain claims for sexual harassment.

2.

Tenney objects to Hartford's Statement of Additional Fact No. 2 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence supported by the record, does not provide a citation to evidence, and purports to state a legal conclusion.

3.

Tenney objects to Hartford's Statement of Additional Fact No. 3 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence supported by the record, does not provide a citation to evidence, and purports to state a legal conclusion.

4.

Tenney objects to Hartford's Statement of Additional Fact No. 4 on the grounds that it is not material to the determinations at issue. The Pelton complaint does not contain claims for 'employment related practices' as that term is defined in the Hartford insurance policy. Tenney further objects to Hartford's Statement of Additional Fact No. 4 on the grounds that it is deficient pursuant to LR 56.1(B)(1) in that it purports to state a legal conclusion.

5.

Tenney objects to Hartford's Statement of Additional Fact No. 5 on the grounds that it is deficient pursuant to LR 56.1(B)(1) in that it purports to state a legal conclusion. By way of further response, the Pelton complaint does not assert an 'expectation of inflicting injury' claim.

6.

Tenney objects to Hartford's Statement of Additional Fact No. 6 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence (material or otherwise), does not provide a citation to evidence, and purports to state a legal conclusion. By way of further response, Tenney has demonstrated with facts supported by citation to the record that he has indeed asserted a claim for defense and indemnity against Defendant Merritt & Tenney LLP (*see* Tenney Affidavit, ¶ 11, 12; Docket No. 17-2, pp. 3-4).

7.

Tenney agrees with Hartford's Statement of Additional Fact No. 7 – the Merritt & Tenney LLP partnership agreement does not contain any indemnity provisions. Tenney further submits in his legal argument, however, that the applicable Georgia partnership law provides indemnity by

and between partners for acts committed in the course and scope of the partnership.

8.

Tenney objects to Hartford's Statement of Additional Fact No. 8 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence that is supported by any citation to evidence, and the statement purports to state a legal conclusion.

9.

Tenney objects to Hartford's Statement of Additional Fact No. 9 on the grounds that it is deficient pursuant to LR 56.1(B)(1). Hartford's statement does not contain facts or evidence that is supported by any citation to evidence, and the statement purports to state a legal conclusion.

Respectfully submitted, this 5th day of January, 2011.

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CERTIFICATE OF SERVICE

I, the undersigned, certify that I electronically filed ***Defendant James F. Tenney's Response to Hartford's Rule 56.1(B) Statement of Additional Undisputed Material Facts*** with the Clerk of Court using the CM/ECF system, which will automatically send electronic mail notification of such filing to the Parties via their counsel of record listed below, on this 5th day of January, 2011.

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